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CLEARINGHOUSE RULE 98-115

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

1. Statutory Authority

a. Is s. HAS 6.07 (1) (d) consistent with s. 459.28, Stats.? Reciprocity depends on whether the requirements for licensure in the other jurisdiction are substantially equivalent to Wisconsin’s requirements. Presumably, if they are substantially equivalent in the other jurisdiction, there is no need, or authority, to require the applicant to pass the practical examination.

b. The revision to s. HAS 7.02 is arguably inconsistent with SEC. 25 (2) of 1997 Wisconsin Act 49. The revision permits a hearing instrument specialist to avoid the 20-hour continuing education requirement in the year 2000, delaying the requirement to 2001. Had the Legislature intended that result, it appears the result could have been specifically provided for in Act 49. In this regard, see also s. HAS 7.03 (1) (d).

c. Sections 459.095 (3) and 459.25 (5m) (a) 3., Stats., require that rules be promulgated to require each person granted a license to practice as a hearing instrument specialist, a speech-language pathologist or an audiologist to complete a specified continuing education program or course of study to ensure competence with respect to a matter related to the license if the department or the examining board has received a significant number of consumer complaints about the matter or if the examining board otherwise determines there is need for such a requirement. The rule does not make clear whether the continuing education requirements contained in ch. HAS 8 are a response to a “significant number of consumer complaints” or if it has been determined that there is a need for continuing education. A rationale for the creation of ch. HAS 8 should be provided in the analysis to the rule in order to support the statutory authority for the imposition of the new continuing education requirement.

2. Form, Style and Placement in Administrative Code

a. The department's "analysis" fails to provide a brief summary of the rule as required by s. 227.14 (2) (a), Stats. The analysis merely gives a very general description of the subject matter of the rule; it conveys no information about the substance of the rule.

b. In s. HAS 6.02 (intro.), it is unnecessary to strike "In" and add "As used in." In addition, the necessity for the reference to ch. 459, Stats., in the introductory clause is unclear.

c. The numbering of the subsections created by the treatment clause of SEC. 9 leaves no room for future insertions. For example, it is suggested that subs. (4s) and (4t) be subs. (4m) and (4r), respectively.

d. Since "hearing aid" is already a defined statutory term, why isn't the term "hearing aid" used rather than "hearing instrument"? See s. HAS 6.02 (4t) and (6a), for example.

e. In s. HAS 6.05 (2) (intro.), the phrase "all of" should be inserted after the word "pass."

f. The title to s. HAS 8.01 refers to authority and "purpose." The text of the section makes no reference to the purpose of the rules in ch. HAS 8.

g. In s. HAS 8.03 (1), "Every" should be "A."

h. It is suggested that the sequence of s. HAS 8.03 (2) and (3) be reversed. In addition, reference in sub. (2) to "may be applied only to the biennial registration period in which the continuing education hours are required" is awkward. Can the subsection be stated more clearly?

i. In s. HAS 8.04 (1), it appears that "program" should follow "education."

j. Section HAS 8.04 (2) (intro.) is drafted as if the paragraphs that follow are considerations rather than requirements. However, the provisions appear to be requirements and sub. (6) refers to them as such. It appears that the introductory clause should be redrafted.

k. In s. HAS 8.04 (2) (a), it appears that the second "of" should be "or."

l. In s. HAS 8.04 (4), it appears that the use of "courses of study" is not consistent with the definition. The definition refers to course work completed *at* a college or university.

m. In s. HAS 8.04 (5), "if" should be substituted for "provided that."

n. In s. HAS 8.04 (6), it appears that insertion of "one or more hours" following the first "of" should be considered.

o. In s. HAS 8.05 (1), "if licensees are" should be replaced by "if a licensee is."

p. In s. HAS 8.05 (2), "is not" should replace "will not be."

4. Adequacy of References to Related Statutes, Rules and Forms

a. Note that statutory references in existing rules not treated by the rule may need attention as a result of the statutory numbering changes made by 1997 Wisconsin Act 49. See, for example, untreated provisions of ch. HAS 1.

b. In s. HAS 6.04 (8), it appears the statutory reference should be replaced by a reference to s. HAS 6.05 (2) (b), instead. In general, the rules should be reviewed to determine if a statutory reference can be made more direct by referencing, instead, the pertinent Wisconsin Administrative Code reference.

c. In the provisions of SECS. 20 through 23 of the rule, it is suggested that the rule provision that imposes the continuing education requirement be cross-referenced.

d. In s. HAS 8.05 (1), it appears that the reference to s. 459.24 (5m) (b), Stats., should be to s. 459.24 (5m) b. 3., Stats.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. HAS 6.05 (2) (a), note that the reference to “written verification of clinical competence” does not include reference to verification “received directly from ASHA.” Compare s. HAS 6.05 (1).

b. In s. HAS 6.06 (1) (e) and (f), reference to a temporary “permit” appears inconsistent with statutory terminology. Compare s. 459.24 (6), Stats.

c. In the last sentence of s. HAS 6.06 (3), it is unclear what the clause “if the applicant shows, to the satisfaction of the board, sufficient cause for the renewal” means, given the definition of “sufficient cause” and the context. For example, does it mean that because of illness or other hardship, the applicant was unable to take a required examination? Or pass a required examination? If the latter, does the applicant still have to apply to take the next available examination?

d. The reason for the repeal of s. HAS 6.09 (2) (h) and (i) is not apparent.